

SUMMARY REPORT OF INVESTIGATION¹**I. EXECUTIVE SUMMARY**

Date of Incident:	November 5, 2016
Time of Incident:	3:16 am
Location of Incident:	XXX District Lockup
Date of COPA Notification:	November 5, 2017
Time of COPA Notification:	8:17 am

On November 5, 2016 at approximately 3:16 AM, Subject 1 was in custody with the Chicago Police Department (CPD) and in a processing room in the XXX District. Subject 1 reportedly manipulated his handcuffed arms from the back to the front of his body and began hitting a glass window with his hands, causing it to crack. Officer A opened the door to the processing room and Subject 1 reportedly stepped towards the officer. Officer A pushed Subject 1, resulting in Subject 1 hitting his head. Subject 1 was transported to XXXXX Hospital, and then to XXXXX Hospital in critical condition.

II. INVOLVED PARTIES

Involved Officer #1:	Officer A, Star #XXXX, XXXX, XX XXXX-2006, Police Officer, XXXX, XX XXXX-1978, Male, Hispanic
Subject #1:	Subject 1, Male, White

III. ALLEGATIONS

Officer	Allegation	Finding
Officer A	It is alleged that on November 5, 2016 at approximately 3:16 AM, in a processing room within the CPD XXX District, located at XXXX S. Halsted used excessive force by pushing Subject 1,	Not Sustained

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

	in violation of Rule 2, Rule 6 in relation to G03-02-01 and G03-02-02, Rule 8, and Rule 9.	
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IV. APPLICABLE RULES AND LAWS

Rules

- Rule 2** prohibits, “Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.”
- Rule 6** prohibits, “Disobedience of an order or directive, whether written or oral.”
- Rule 8** prohibits, “Disrespect to or maltreatment of any person, while on or off duty.”
- Rule 9** prohibits, “Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.”

General Orders

CPD General Order G03-02-01, The Use of Force Model:²“The primary objective of the use of force is to ensure control of a subject with the reasonable force necessary based on the totality of the circumstances.”

“Whenever reasonable, members will exercise persuasion, advice, and warning prior to the use of physical force.”

“When force is applied, a member will escalate or de-escalate to the amount of force which is reasonably necessary to overcome the subject’s resistance and to gain control [...] Members will modify their level of force in relation to the amount of resistance offered by the subject.”

CPD General Order G03-02-02, Force Options:³“The goal of a Department member’s response to all incidents is to resolve the incident with the foremost regard for the preservation of human life and the safety of all persons involved.”

² The use of force model referenced in this report is the policy that was effective from May 16, 2012 until October 16, 2017.

³ The Force Options policy referenced in this report was effective from January 1, 2016 until October 16, 2017.

This policy defined an assailant as, “a subject is using or threatening the imminent use of force against himself/herself or another person.” One category of assailant, per this policy was an individual whose, “Actions are aggressively offensive without weapons” which “places a member in fear of battery and includes advancing on the member in a threatening manner or closing the distance between the assailant and the member, thereby reducing the member’s reaction time.” The following force options were appropriate for this type of assailant: direct mechanical, impact weapons, and impact munitions.

V. INVESTIGATION⁴

a. Interviews

Victim Interview, Subject 1

On January 4, 2017, a representative from the Cook County Public Defender’s Officer informed IPRA that an interview with Subject 1 was not allowed at that time. (Att. 32)

On November 29, 2017, COPA completed an interview with Subject 1. According to Subject 1, on November 5, 2016, he had been drinking and had “a little too much.” Subject 1 stated that someone called the police but he does not remember exactly what happened. Subject 1 stated that officers arrived and they had an argumentative conversation while he was being arrested. Subject 1 could not remember exactly what the content of that conversation was, but he believed it was “bad” and that he was “acting up” because of his intoxication. Subject 1 related that at XXXX Hospital, he received treatment and was handcuffed to the hospital bed while officers supervised him. Per Subject 1, he did not remember being at XXXX hospital or at the police station before he hit his head. Subject 1 only remembered being arrested and then waking up in a hospital. Subject 1 did not remember hitting his head or Officer A pushing him. Subject 1 stated that after he was discharged from XXXX Hospital, he went to his “local clinic” for treatment and his condition improved. Subject 1 stated he is not currently getting medical treatment and he is “not really” experiencing any effects from these injuries. (Att. 59)

Accused Interview, Officer A

Officer A related that on November 5, 2016, he was working in the XXX District with his partner, Officer B. Officer A stated that he and his partner were present at XXXX S. Hoyne, responding to a disturbance. Officer A elaborated that Subject 1 was detained by a group of civilian men who were holding onto Subject 1. These men told the officers that Subject 1 had broken their window and they wanted to sign complaints. Officer A stated that Subject 1 was erratic, confused, and “not all there,” when the officers first saw Subject 1. Officer A believed Subject 1 was intoxicated. Officer A stated that Subject 1 had been aggressive towards the residents at XXXX S. Hoyne while these individuals brought Subject 1 towards the officers. Officer A called EMS and an ambulance arrived to take Subject 1 to XXXXX Hospital. Officer A also went to XXXX and recalled that Subject 1 had to be placed in a locked room due to his violent behavior. Officer A

⁴ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

stated that Subject 1 was banging on the hospital walls, including banging his head, and Officer A observed this via a camera. Officer A related that Subject 1 had to be strapped down and the doctor almost sedated Subject 1. However, Subject 1 eventually calmed down and did not need sedation. When Subject 1 was discharged, the officers transported him to the XXX District.

Once at the XXX District, Subject 1 had “calmed down some,” but Officer A left him in handcuffs in the cell to give Subject 1 time to calm down. Officer A reported that normally, arrestees are handcuffed to the wall but he sometimes leaves aggressive arrestees in handcuffs to let them “cool down” or fall asleep. Officer A heard Subject 1 banging on the glass in the lock-up room, at which point the officer realized Subject 1 had moved his handcuffs to the front of his body. Officer A told Officer B that Subject 1 needed to be secured to the wall, so Officer A approached the door to Subject 1’s room. Officer A related that when he opened the door, Subject 1 lunged towards the officer with his hands raised so the officer pushed Subject 1 back. Officer A explained that Subject 1’s hands were in cuffs in front of his body and Subject 1 was raising his hands from his waist up towards his shoulder area. Officer A believed that Subject 1 was going to strike the officer. Officer A stated that he told Subject 1 to step back, but Subject 1 did not comply. Officer A stated he pushed Subject 1 to create distance and Subject 1 fell back and bumped his head. Officer A helped Subject 1 stand up and sat Subject 1 on a bench in the holding cell. Officer A related that he did not necessarily think Subject 1 was trying to escape but he did believe Subject 1 was going to hit him. Per Officer A, he did not think he could have used another method aside from pushing Subject 1.

Officer A related that Subject 1 was still intoxicated at this point and that Subject 1 changed his mood to apologetic. Officer A stated Subject 1 asked to use the restroom, so Officer A removed Subject 1’s handcuffs and left him uncuffed in the holding cell. Officer A recalled that Officer B was in the holding cell with Subject 1, but Officer A was uncertain what his partner was doing at that time. Officer A related that he did not initially observe any injuries on Subject 1 but he still called EMS since Subject 1 had hit his head. Officer A first noticed Subject 1’s injuries after Officer B told Officer A that Subject 1 was bleeding. Officer A believed he had already called for an ambulance when he saw Subject 1 was bleeding. Officer A related he did not go to the hospital with Subject 1. Officer A stated that he talked to Sergeant A [phonetic] at the station to tell her about the broken glass. Officer A did not know why the CFD Run Sheet for Subject 1’s transportation from the XXX District to XXXX Hospital stated Subject 1 had hit his head on a door frame while trying to flee. Officer A denied telling anyone that Subject 1 hit a door frame. (Att. 50)

Witness Interview, Officer B

An interview was conducted with Officer B on June 7, 2017. Officer B stated that on November 5, 2016, he and his partner, Officer A, were on patrol in the XXX District. Officer B reported that on this date, he and his partner heard an OEMC call directing the officers to Subject 1’s location at XXXX S. Hoyne for a call of a suspicious person. The officers observed Subject 1 in the backyard of this address and the officers handcuffed him. Officer B recalled that Subject 1 appeared to be under the influence of alcohol and possibly also drugs, so an ambulance was called. Officer B stated Subject 1 was fighting, had slurred speech, and smelled like alcohol. Subject 1 was brought to XXXXX Hospital. Officer A was in the ambulance with Subject 1 and Officer B

followed in a squad car. Officer B indicated that he stayed in the squad car to complete paperwork while Officer A escorted Subject 1 inside. Subject 1 was treated at XXXX and released, at which point Subject 1 was brought to the XXX District. Officer B related that his partner stated Subject 1 was banging his head against the wall at XXXX Hospital. Subject 1 was handcuffed behind his back while in the squad car.

Once at the XXX District, Subject 1 was escorted into a cell while Officer B completed reports on a computer. Officer B related that while he was completing his reports with Officer A seated next to him, they heard a banging noise. Officer B told his partner to go check on the noise, which Officer A did. Officer B reported that he also stood up behind Officer A and saw Subject 1 was banging on the window. Officer B related that Subject 1 had his handcuffs in front of his body and was shattering the glass. Officer B stated that he later learned that Subject 1 had pulled his legs through his hands and got his hands in front of his body. Officer B observed Officer A opening the cell door while Subject 1 approached Officer A. According to Officer B, this occurred quickly and Officer A pushed Subject 1 back. Officer B did not know if Officer A could have closed the door or chosen a different outlet instead of pushing Subject 1. Officer B stated he was approximately three feet behind his partner when Officer A pushed Subject 1. Officer B related that Subject 1 was raising his hands when Officer A pushed Subject 1. Officer B stated that after the fact, Officer A told him he thought Subject 1 was trying to step towards Officer A. Officer B believed that due to Subject 1 being intoxicated, combative, and belligerent, he thought Subject 1 might have attempted striking Officer A. Officer B reported that he saw Subject 1 had fallen to the ground. He also saw Officer A helping Subject 1 up and removing Subject 1's handcuffs. Officer B stated Subject 1 had a laceration on the back of his head. Officer B did not know how Subject 1 fell, as the officer just saw Subject 1 on the ground after the fact.

Next, Officer B saw everything was fine and returned to do paperwork. Officer A left Subject 1 in the cell, unhandcuffed. Subject 1 starting banging on the cell wall with his hands, so Officer B went to speak with Subject 1. Officer A stated that he handcuffed Subject 1 to the wall, walked out, and closed the cell. A sergeant then came (identified as Sergeant B, at which point Officer B saw there was blood in the cell. Officer B assumed his partner had called for a sergeant. Officer B searched Subject 1 and determined that the blood was coming from Subject 1's head. At about this same time, Officer B heard Officer A calling for an ambulance. Officer B denied that Subject 1 complained about any injuries. An ambulance came and Subject 1 was transported to a hospital. Officer B stated that he did not go to the hospital. (Att. 35)

Witness Interview, Officer C

Officer C stated that on November 5, 2016, he was working patrol in the XXX district with his partner, Officer D. Officer C recalled that Subject 1 was arrested on this date at XXXX S. Hoyne. Officer C and his partner were assisting and were told by Beat XXXX (Officers A and B) that Subject 1 had been detained. Officer C stated that he saw Subject 1 in handcuffs and Subject 1 appeared to be disoriented and intoxicated. According to Officer C, Subject 1 was in custody when he and Officer D arrived, so the officer had no interactions with Subject 1. Officer C related that an ambulance arrived and transported Subject 1 to the hospital. Officer C saw no injuries on Subject 1 and did not go to the hospital with Subject 1. (Att. 44)

Witness Interview, Officer D

According to Officer D, on November 5, 2016, he responded to a call for a suspicious person and criminal damage. Officer D related first responding unit (Officers A and B) already had Subject 1 in custody and he observed Subject 1 in handcuffs. Officer D described Subject 1 was “erratic” and “highly intoxicated.” One of the arresting officers called for an ambulance and Subject 1 was placed inside. (Att. 55)

Witness Interview, Sergeant B

Sergeant B related that on November 5, 2016, he was working as a Field Sergeant in the XXX District. Sergeant B recalled Subject 1 and related that he was notified by Officer A there was an event in the processing area involving Subject 1. Sergeant B could not recall if Officer A called for medical attention before or after speaking with the sergeant. Officer A told Sergeant B that a prisoner in the processing area “flipped” his handcuffs and began striking and breaking the glass in the processing room. Officer A informed the sergeant that he opened the processing room door when Subject 1 reportedly moved towards the officer with his hands raised. Officer A pushed Subject 1 back and Subject 1 fell. Sergeant B had a conversation with Subject 1 before Subject 1 went to the hospital. The sergeant related that Subject 1 was “alert and able to talk” but seemed intoxicated and not able to have a full conversation. Sergeant B confirmed that he was the sergeant seen in the XXX District lock-up footage (Att. 14). Sergeant B stated that did not know why there was missing or skipped video footage, but he believed there has been issues with Department video cameras occasionally skipping. Sergeant B did not know why a CFD run sheet (Att. 13) stated Subject 1 hit his head and elbow. (Att. 66)

Witness Interview, Detention Aid A

Detention Aid A did not recall Subject 1 or an incident from November 5, 2016 where an arrestee sustained a head injury. Detention Aid A acknowledged that he was seen with Officer A in the video footage from the XXX District (Att. 14). Detention Aid A stated that Subject 1 was not injured in lock-up, where Detention Aide A works. Detention Aide A elaborated that Subject 1 was injured in a processing room, which is separate from lock-up. Detention Aide A recalled nothing unusual from November 5, 2016. Detention Aide A speculated that on the day in question, he went to say hello to Officer A and that was why he was seen in processing room video. (Att. 64)

Witness Interview, Sergeant C

Sergeant C stated that on November 5, 2016, he was working as a district station supervisor. Sergeant C did not believe he ever saw or interacted with Subject 1, as Sergeant C relieved the sergeant on-duty at the time Subject 1 was injured. However, Sergeant C believed that the sergeant he relieved had informed him that Subject 1 was injured and at the hospital. Sergeant C believed he was told that Officer A pushed Subject 1 away after an attempted assault against the officer. Per Sergeant C, there are time gaps in the surveillance video because the system is motion sensitive and only records when there is motion. (Att. 57)

Witness Interview, Officer E

Officer E reported that on November 5, 2016, he was partnered with Officer F. Officer E recalled that on this date, he and his partner were sent to XXXX Hospital to guard Subject 1. Subject 1 was eventually transferred to XXXX Hospital and the officers also went to XXXX. Officer E and his partner were with Subject 1 in a private ambulance when Subject 1 was transferred from XXXX to XXXX. Officer E recalled that during this transportation, Subject 1 began vomiting and was unconscious so the ambulance had to stop. Officer E was told that Subject 1 had fallen and hit his head but he did not know how Subject 1 fell. Officer E stated that Subject 1 was “in and out” of consciousness while the officers were guarding him. Officer E stated that he did not speak to Subject 1 about his injuries or about Officer A. Officer E did not recall Subject 1 speaking at all. Officer E reported that Subject 1 appeared to be intoxicated due to his odor and behavior. However, Officer E noted that this behavior, such as slurred speech, could have been caused by the head injury. Officer E was not with Subject 1 when Subject 1 was discharged from the hospital. (Att. 46)

Witness Interview, Officer F


According to Officer F, on November 5, 2016, she was partnered with Officer F. Officer F stated that when she first saw Subject 1, he was in a hospital bed at XXXX Hospital. Officer Malloy stated she was not told anything about why Subject 1 was hospitalized. Officer F related that she was with Subject 1 during transportation from XXXX Hospital to XXXX Hospital. The officer related that Subject 1 was moved to XXXX because he sustained a brain injury and needed a trauma unit. Officer F recalled that during transportation to XXXX, Subject 1 began vomiting so the ambulance pulled over. Officer F believed it was a critical care ambulance. Officer F was not present when Subject 1 was discharged from the hospital. Officer F stated she did not speak to Subject 1 and she did not remember Subject 1 being verbal. (Att. 47)



b. Digital Evidence**9th District Video Footage**



Video footage was obtained of Subject 1 while in the processing room at the XXX District where he sustained his injury.⁵ (Att. 14)



Time	Description	Photo
3:09:13 AM	Officer A is seen walking Subject 1 in the XXX District. Subject 1 is stumbling and appears unsteady.	



⁵ COPA notes that there is almost 20 minutes of “skipped” footage missing from this video. Per Sergeant C, this is likely due to the fact that their surveillance video is motion sensitive only records when there is motion.


	Subject 1 is handcuffed behind his back.	
3:09:44 AM — 3:09:47 AM	Subject 1 is seen bending over and moving his arms before walking out of view.	



		
3:12:27 AM	Subject 1 walks back into view with his arms seen in front of his body.	
3:16:34 AM	Subject 1 is partially obstructed but an indistinct portion of his body is seen moving backwards and forwards.	



		 A hallway with a counter and a door. The counter is white and has some items on it. The door is open and is on the right side of the hallway. There is a sign on the wall to the left of the door.
3:16:46 AM	Officer A opens the door and begins to enter, Subject 1 is also seen moving towards the open door.	 A hallway with a counter and a door. The counter is white and has some items on it. The door is open and is on the right side of the hallway. There is a sign on the wall to the left of the door. A large black redaction box is placed over the center of the image.
3:16:46 AM	Both Subject 1 and Officer A are no longer visible due to the placement of a wall and the doorframe.	

		
3:16:46 AM	Subject 1 is seen falling backwards.	

		
3:16:47 AM	Subject 1 continues falling backwards and Officer A continues moving forward while shoving Subject 1.	

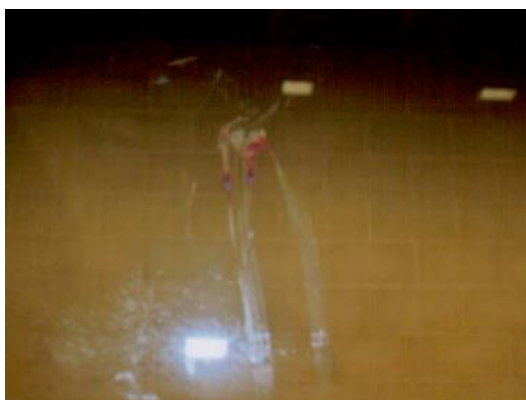
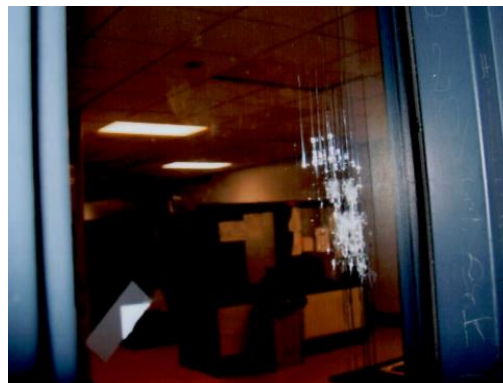
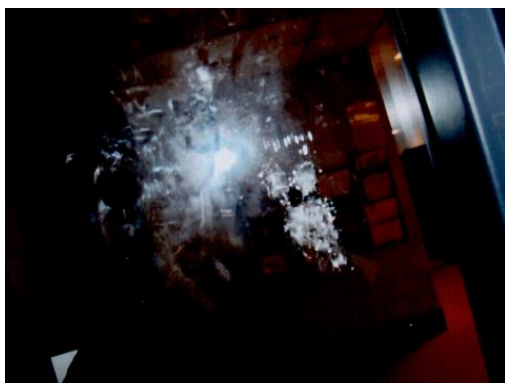
		
3:16:54 AM	Subject 1's feet are visible, indicating he was laying on his back.	

		
3:23:06 AM	Officer A exits the processing room. Subject 1 is not visible.	
3:23:31AM	Subject 1 returns into view, looking out of a window in the processing room.	

		
3:30:55 AM	Sergeant B appears on screen walking towards the processing room containing Subject 1 following by Officer A.	
3:32:49 AM	The video ends without Subject 1 seen exiting or emergency medical staff arriving.	

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Photos were taken in in XXth District Lockup on November 5, 2016. These photos show the processing room that had housed Subject 1. The glass door appears smudged and cracked in these photos. There is also blood seen in this room. A sampling of the most pertinent of these photos is included below. (Att. 21)



c. Physical Evidence

XXXX Hospital

Medical records were obtained from XXXX Hospital regarding Subject 1's hospitalization on November 5, 2016. Records report that Subject 1 did not want to give hospital staff his personal information and asked for his lawyer. Subject 1 was brought to the hospital by CPD (identified as Officers A and B) and Subject 1 admitted he had been drinking alcohol. Subject 1 was described as "mildly agitated but directable." Subject 1 was discharged after being medically cleared into the custody of the CPD officers. (Att. 24)

XXXX Hospital

Medical Records were obtained from Subject 1's stay at XXXX Hospital on November 5, 2016. Available records stated that Subject 1 was admitted for a head injury at approximately 4:30 AM. Subject 1 was transferred to XXXX Hospital of Cook County via ambulance and in stable condition at approximately 7:36 AM. Subject 1 was in police custody and he reportedly told hospital staff that he ran into a door and hit his head. Hospital staff related that Subject 1 was acting "bizarre" after hitting his head on a jail cell wall. Subject 1 also told hospital staff he had been punched earlier during an altercation. Radiology staff reported that Subject 1 had a parenchymal hemorrhage, subdural hematoma, and likely also a skull fracture. Subject 1 was described as inappropriate and uncooperative and that he was refusing to participate or answer questions asked by hospital staff. At approximately 6:42 AM, hospital staff noted that Subject 1 was more alert and cooperative, but still confused. Also at approximately 6:42 AM, Subject 1 recalled being in jail but not how he injured his head. (Att. 28)

XXXX Hospital of Cook County

On November 5, 2016, IPRA investigators attempted to interview Subject 1 while he was at XXXX Hospital. Subject 1 did not wake up and a business card was left for him. Civilian 1 related that the hospital staff was awaiting test results for Subject 1. Civilian 2 related that Subject 1 did not have a fractured skull but had a diagnosis of a subdural hematoma and an intracerebral hematoma, also referred to as a "brain bleed." Civilian 2 informed investigators that Subject 1 was in and out of consciousness and not coherent enough to conduct an interview. (Att. 17)

Subject 1's medical records were obtained from XXXX Hospital of XXXX from November 5, 2016. Subject 1 was admitted on November 5, 2016 at approximately 7:53 AM and was discharged on November 6, 2016 at roughly 12:31 PM. Documents stated Subject 1 was arrested after allegedly attempting to break into a house and repeatedly hitting his head on the wall once in jail, causing vomiting and a loss of consciousness. Subject 1 was initially taken to XXXX Hospital but transferred to the XXXX Trauma Unit due to his injuries. Subject 1 complaints at the time of admission were a headache and nausea. Upon his admission, Subject 1 was reportedly cooperative, alert, and oriented. Physician notes stated that Subject 1 had been hitting his head against a wall while in police custody. Notes also state that Subject 1 had a "recent history of self induced [sic] trauma" and had been "striking head against the wall at jail." Subject 1 was diagnosed with multiple hemorrhagic contusions and a small subdural hematoma. Subject 1 was given a 7-day prescription for XXXX upon discharge.⁶ (Att. 30)

⁶ XXXX is an anti-epilepsy/anti-convulsant medication. Source: XXXX

d. Documentary Evidence**Department Reports and Records**

Office of Emergency Management and Communications (OEMC) Event Query Reports were located from the November 5, 2016 events pertaining to Subject 1. At approximately 1:45 AM, Dispatch related that there was a suspect person at XXXX S. Hoyne. Beat XXXX (Officers A and B) responded to the event. Subject 1 was in custody at approximately 2:02 AM and taken to XXXX Hospital at approximately 2:23 AM. This report stated that an individual called 911 because a male (identified as Subject 1) was banging on the caller's door, broke a window, and was lurking around the caller's back yard. (Atts. 18, 19, 22, 23)

An Arrest Report, Detective Supplementary Reports, and a CPD Original Case Incident Report were obtained for RD #XXXXXX. Reports related that on November 5, 2016 at approximately 3:16 AM, Subject 1 was transported by ambulance to XXXX Hospital after receiving a minor blunt force injury. Subject 1 was suspected of using alcohol and narcotics. While in a processing room in the XXX District, Subject 1 was handcuffed behind his back and moved the handcuffs to the front of his body. Subject 1 began hitting a glass window "multiple times causing the glass to shatter." Officer A, "opened the cell door in order to stop [Subject 1] from breaking the glass." When the officer did so, Subject 1 approached Officer A, "in an aggressive manner while raising his hands." Officer A responded by pushing Subject 1 away, resulting in Subject 1 falling "backwards and striking his head on the floor." Subject 1 reportedly had a lump on the back of his head and was transported to XXXX Hospital.

Detective Supplement Reports stated that Subject 1 sustained intracranial hemorrhage and subdural hematoma. Subject 1 was charged with criminal damage to property, criminal damage to government property, and aggravated assault against a peace officer. Subject 1 was described as using handcuffs as a weapon. Earlier in the day, Subject 1 was taken by Officers A and B to St. XXXX Hospital where Subject 1 reportedly struck his head against the hospital wall. When the reporting detective arrived at the XXX District, he observed blood on the processing room's wall, floor, and sliding door, in addition to cracked glass on the sliding door. The detective interviewed Subject 1, who did not recall being arrested, breaking glass in the XXX District, or aggressively approaching Officer A. Subject 1 admitted that he had been drinking beer. Officer B told the responding detective that he and Officer A arrested Subject 1, who appeared to be intoxicated. Officer B related that he saw Subject 1 approaching Officer A, followed by Officer A pushing Subject 1 away and Subject 1 falling to the ground. After this occurred, Subject 1 continued banging on the glass and was handcuffed to a bench. Officer B saw that Subject 1's head was bleeding and an ambulance was called.

Emergency Room staff at XXXX Hospital recalled that Subject 1 was "very confrontational and loud," and was "banging his head of the wall and kicking the door" before he was released into police custody. Civilian 3 also related that Subject 1 refused medical treatment and asked for a lawyer. Officer A told the responding detective that when Subject 1 was arrested, he was incoherent and "Jaw-Jacking" so the officer thought Subject 1 was intoxicated. Officer A called an ambulance to take Subject 1 to XXXX Hospital. Subject 1 was discharged from XXXX into police custody. Officer a brought Subject 1 to the XXX District where Subject 1 was placed

in a holding cell. Officer A later heard banging and saw Subject 1 with his handcuffs in front of his body. Officer A opened the door, Subject 1 approached the officer, and he began “to raise his hands to strike.” Officer A responded by pushing Subject 1, which caused Subject 1 to fall and hit his head on the ground. Subject 1 again began banging on the glass door when Officer B saw blood on the wall and on the back of Subject 1’s head. An ambulance arrived and transported Subject 1 to XXXX Hospital. Subject 1 was later transferred from XXXX Hospital to XXX XXX XXX Hospital.

The reporting detective spoke to Subject 1 at XXXX Hospital. Subject 1 related that he remembered drinking and getting lost on his way home. Subject 1 did not recall breaking a window at XXXX S. Hoyne, being arrested, being taken to the hospital, hitting glass at the XXX District, or walking towards Officer A in an aggressive manner. (Atts. 6 - 9, 31, 39)

Officer A completed a Tactical Response Report (TRR) following the incident with Subject 1. This report related that Subject 1 posed an imminent threat of battery and was closing distance between himself and Officer A. Officer A responded with verbal commands and by pushing Subject 1 back. Subject 1 was hospitalized following the incident. An Officer’s Battery Report (OBR) was identified for Officer A with similar content. (Atts. 10, 11)

Chicago Fire Department Reports and Records

A Chicago Fire Department (CFD) Ambulance Run Sheet was located regarding Subject 1’s ambulance transportation to XXXX Hospital. This document reports that Subject 1 was in a police vehicle, “acting agitated and uncooperative” when the ambulance arrived. Subject 1 told the emergency medical staff (EMS) in the ambulance that he smoked marijuana. (Att. 12)

A second CFD Ambulance Run Sheet was obtained for Subject 1’s ambulance transportation from the XXX District to XXXX Hospital. CFD reported that Subject 1 was in lock-up and was “alert but confused/ uncooperative.” Subject 1 was reportedly being uncooperative at the XXth district and “attempted to flee.” This report states that when an officer attempted to stop Subject 1, Subject 1 hit the back of his head and elbow on a doorframe. EMS noted a hematoma on Subject 1, as well as an abrasion to his left elbow. (Att. 13)

VI. ANALYSIS

COPA recommends a finding that allegation #1 against **Officer A**, that he used excessive force by pushing Subject 1, be **Not Sustained**.

The pivotal determination is whether the force used by Officer A against Subject 1 on November 5, 2016 was excessive given Subject 1’s actions. It is unquestioned that Subject 1 sustained serious injuries as a result of Officer A’s shove. Subject 1 was diagnosed with multiple hemorrhagic contusions and a small subdural hematoma. The video depicts Officer A shove Subject 1 as the cell door open and Subject 1 does not appear prepared for the physical contact. The video depicts a very violent shove that we know resulted in serious injuries. In order for that level of force to be used Subject 1 would have to be defined by the use of force model as an active

resister or an assailant. According to General Order G.O. 03-02-02 IV-B-2-a, an active resister is defined as a person who attempts to create distance between that person and the member in an attempt to avoid physical control. In the instant case, Subject 1 was not an active resister, Subject 1 can be seen in the video stepping toward Officer A or at the very least standing in the doorway.

The only remaining justification for Officer A's use of force would be that Subject 1's actions made him an "assailant." Under the use of force policy that was in effect during this incident, an assailant is defined as "a subject using or threatening the imminent use of force against himself/herself or another person." In his statement Officer A asserted that Subject 1 had been aggressive prior to this incident and based on his level of intoxication, Officer A assumed Subject 1 was going to attack. Multiple sources reported that Subject 1 was acting in a generally erratic, hostile, non-cooperative and confrontational manner. Specifically, Subject 1 used his handcuffs to break the processing room glass. Officer A alleged that he initially tried to use verbal commands but Subject 1 did not listen. Both Officers A and B stated that Subject 1 approached Officer A with his hands raised.

The video does not conclusively determine whether Subject 1 was an assailant. The video does depict Subject 1 damaging the glass window of the processing room, which required Officer A to intervene. However, the video does not have the benefit of audio; therefore, COPA cannot discern what commands, if any, were given and how Subject 1 reacted. More importantly, the moment just before Officer A shoved Subject 1, Subject 1's body is obscured by the door frame. As Subject 1 is shoved backwards his hands are in front of him below his waist. Officer A asserts that Subject 1 raised his hands as he approached the cell door causing Officer A to be in fear of receiving a battery. The video is inconclusive as to whether Subject 1's hands were raised or merely cuffed in front of his body. Moreover, based on how violently Subject 1 flew backwards, it would appear Subject 1 was not prepared for the physical encounter with Officer A, which militates against his actions being that of an assailant. While the testimonial evidence describes Subject 1 an assailant, the video evidence is insufficient to prove or disprove that Officer A was reasonable in viewing Subject 1 as an assailant in the moment he chose to use a direct mechanical strike against him. Therefore, COPA recommends a finding of Not Sustained.

VII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding
Officer A	Used excessive force by pushing Subject 1, in violation of Rule 2, Rule 6 in relation to G03-02-01 and G03-02-02, Rule 8, and Rule 9.	Not sustained

Approved:

Deputy Chief Administrator – Chief Investigator A

Date

Appendix A

Assigned Investigative Staff

Squad# 4	
Investigator:	Investigator A
Supervising Investigator:	Supervising Investigator A
Deputy Chief Administrator:	Deputy Chief Administrator A